

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/A/7/275/71

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on the 15th February, 1971 is hereby published for general information in pursuance of the provisions of rule 127 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Arecanut Gardens) Bill, 1971

(Bill No. 3 of 1971)

A BILL

to provide for the protection from eviction of tenants of cashewnut and arecanut gardens and for matters connected therewith.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-Second Year of the Republic of India as follows:—

1. Short title, extent, commencement and duration.

— (1) This Act may be called the Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Arecanut Gardens) Act, 1971.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force at once.

(4) It shall remain in force for a period of two years.

2. Definitions. — In this Act, unless the context otherwise requires, —

(a) "appointed day" means the date of the first publication of this Bill in the Official Gazette Govt. of Goa, Daman and Diu;

(b) "landlord" means a person from whom a tenant holds an arecanut or cashewnut garden on lease on the appointed day;

(c) "Mamlatdar" has the meaning assigned to it in clause (c) of section 2 of the Goa, Daman and Diu Mamlatdar's Court Act, 1966; (9 of 1966);

(d) "tenant" means a person who, on the appointed day, holds an arecanut or cashewnut garden on lease;

(e) "garden" means a land where arecanut or cashewnut trees are grown;

(f) "rent" means any consideration in money or kind or both, paid or payable by the tenant on account of his right to tend the garden and collect the fruits thereof.

3. Grounds of eviction. — (1) Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract or a decree or order of any Court, a tenant shall not be liable to eviction save as provided in sub-section (2).

(2) A landlord may apply in writing to the Mamlatdar for the eviction of his tenant on the ground of causing damage to the garden on lease or for non-payment of rent within sixty days from the date on which the rent is due under the terms of the tenancy:

Provided that no order of eviction on the ground of non-payment of rent shall be made if the tenant deposits with the Mamlatdar at any stage of the proceedings for eviction, the rent due, or if the rent is payable in kind, its market value on the date of deposit together with cost of the application and other cost, if any, to be determined by the Mamlatdar.

(3) Any tenant who has been evicted from the garden on lease at any time on or after the appointed day, may, within six months of the commencement of this Act, or of the date of his eviction whichever is later, on grounds other than the ones mentioned in sub-section (2), may make an application in writing to the Mamlatdar for restoration of possession.

(4) The Mamlatdar shall, on receipt of an application under sub-section (2) or sub-section (3) make such inquiries as he may consider necessary in respect of such application and make an order disposing of the same.

(5) No order of disposal shall be made by the Mamlatdar under sub-section (4) unless the party against whom the order is proposed to be passed has been given an opportunity of being heard in the matter.

4. Mamlatdar to decide whether a person is a tenant. — (1) If in any proceedings before a Civil Court, a question arises as to whether a person is or is not a tenant within the meaning of this Act, such Court shall refer the said question to the Mamlatdar for his decision.

(2) Every decision or order made by the Mamlatdar under sub-section (1) or under sub-section (4) of section 3 shall be subject to the revision of the Collector under sub-section (2) of section 22 of the Goa, Daman and Diu Mamlatdar's Court Act, 1966, (9 of 1966) as if such a decision or order had been made in a suit or proceeding under that Act, subject to the condition that revision application under this Act shall be filed within thirty days from the date of the decision or order as aforesaid.

(3) Every decision or order made by the Mamlatdar under this Act shall, subject to any orders that may be passed by the Collector under sub-section (2), be final.

(4) Every order made by the Mamlatdar under this Act shall be executed as if it had been made under the Goa, Daman and Diu Mamlatdar's Court Act, 1966. (9 of 1966).

5. Bar of jurisdiction. — No Civil Court shall have jurisdiction to entertain, decide or deal with any question which is to be decided by the Mamlatdar under this Act.

6. Limitation. — In computing the period of limitation prescribed under any law for the institution of suits or proceedings, prohibited under section 3, the period during which such suits or proceedings remain prohibited under this Act shall be excluded.

7. Power to make rules. — (1) The Government may, by notification in the Official Gazette, make rules generally to carry out the purpose of this Act.

(2) All rules made under this Act shall be laid on the table of the Legislative Assembly after they are made and shall be subject to such modifications as the Assembly may make during the session in which they are so laid or the session immediately following.

Memorandum of Delegation of Legislative Powers

Powers have been delegated to the Government to make rules generally to carry out the purposes of the Act.

There is no specific proposal for exercise of such power and the provision has been included by way of abundant caution as that some minor details may be filled as may be found necessary in the course of the administration of the Act. Then the delegated legislation, if any, would be only of normal character.

The rules to be framed will be laid on the table of the House and will be subject to such modification as may be made by the House.

Objects and Reasons

The tenancy matters with respect to agricultural land in the Union Territory of Goa, Daman and Diu have been regulated through the enactment of "The Goa, Daman and Diu Agricultural Tenancy Act, 1964".

Under that Act, security of tenure was given to all the tenants of agricultural land. And, when defining the term "agriculture", the raising of produce from fruit bearing trees including coconut, arecanut, cashew or mango, has been excluded. It is evident, therefore, that no security of tenure was given to the tenants of cashewnut and arecanut gardens.

The Government, having come across some cases of eviction, particularly in case of tenants of arecanut gardens, and in exercise of powers conferred under the Goa, Daman and Diu (Administration) Removal of Difficulties Order, 1962, has issued an order protecting the rights of tenants regarding cashewnut and arecanut gardens. But, the said order was declared null and void by the order dated 26th February, 1970, from the Judicial Commissioner's Court.

The present Bill has been prepared to provide for the protection from eviction of tenants of cashewnuts and arecanut gardens, until a comprehensive legislation on the subject is introduced in this House. The Committee appointed by the Government to propose Land Reforms in the Territory, is expected to make some recommendations on the subject.

Panaji,
6th February, 1971.

D. B. BANDODKAR
Chief Minister

Assembly Hall,
Panaji,

15th February, 1971. Assembly of Goa, Daman and Diu.

O. P. GARG
Secretary to the Legislative